ESO 134

Department of Agricultural Economics and Rural Sociology
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Review Of

A DIRECTORS RESPONSIBILITY

Presented

LANDMARK DISTRICT DIRECTORS MEETING

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by

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WHAT IS A COOPERATIVE?

A farmer cooperative is a business enterprise.

There are three basic principles that distinguish cooperatives from other types of corporate businesses:

1. Cooperatives provide goods and services to members at cost.

2. Control of the cooperative is in the hands of its members.

3. Federal and State laws specify maximum interest rate of 8% that a cooperative may pay on stock.

"A cooperative is a voluntary contractual organization of persons having a mutual ownership interest in providing themselves a needed service(s) on a nonprofit basis. It is usually organized as a legal entity to accomplish an economic objective through joint participation of its members. In a cooperative the investment and operational risks, benefits gained, or losses incurred are shared equitably by its members in proportion to their use of the cooperative's services. A cooperative is democratically controlled by its members on the basis of their status as a member-user and not as investors in the capital structure of the cooperatives."

A member of a farmer cooperative must do business with his cooperative if he expects it to be successful.

It's your responsibility as a coop director that all directors of your coop are trained to discharge their responsibilities with dispatch.

Director training should start with a careful selecting of nominees for the position on the Board.

As farmer cooperatives continue to grow and become an even greater influence in our economy, the demand will become greater for capable, far-sighted and active board members to do the analyzing and planning required for the successful management of cooperatives. Directors of successful farmer cooperatives of the future must devote the necessary time away from their farm to effectively carry out their responsibility of director of their cooperative.

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An incorporated cooperative operates within a legal framework made up of laws under which it is incorporated, articles of incorporation, Bylaws and (in some instances) a marketing agreement.

"The articles of incorporation of an association may be altered or amended at any regular meeting of the association or at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and must then be adopted by a vote representing a majority of all the members of the association."

The purpose of Bylaws is to provide rules for the regulation of the affairs of the corporation.

The power to adopt Bylaws resides in the stockholders or members and they alone have the power to adopt them.

It is advisable to make available to each member of the corporation a copy of the Bylaws.

Legal liabilities may result from a failure of officers and directors to observe Bylaws. Bylaws are adopted by the members of an association, and they constitute instructions, rules or restrictions for the management of an association.

A Board of Directors is a governing body legally created by the laws of the state and the corporate papers of the organization and by these legal documents it is given the authority to exercise the power of the corporation, limited only by an conditions set forth in the corporation's Bylaws.

The Board of Directors is not only charged with the responsibility for exercising all the authority of the corporation, its management, the safeguarding of its assets and the conduct of its business - the Board of Directors is in fact, the only group of persons in whom this authority is vested.

It is the abilities of the men who make up the Board of Directors that is the real decisive factor in the growth and accomplishments of any organization.

It must always be remembered that the Board of Directors decisions are group decisions. It is necessary that each director have knowledge of the corporations business, its opportunities and limitations and of conditions affecting its operation.

It is advisable that all vacancies which arise on the board be filled promptly so that there may be at least five directors in office. The law gives the Board of Directors the responsibility that when a vacancy on the Board occurs other than by expiration of term, the remaining members of the Board, by a majority vote, shall elect a director to fill the vacancy, if the Bylaws provide for an election of directors by districts in which case the board shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy.

If there are no provisions in the Articles or Bylaws for time or place of holding director's meetings or for giving notice of such meetings, it is assumed that the requirements of the general corporation law would apply which require written notice at least two days before each meeting of the Board.

The directors of a cooperative are not bound to attend a certain number of meetings, yet their absence from meetings can in some cases make them personally liable by the fact that they failed to attend meetings and to devote the necessary attention and consideration to the affairs of the corporation.

Every officer, employee and agent handling funds, negotiable instruments or other property of or for the association, shall execute and deliver adequate bonds for the faithful performance of his duties and obligations.

The minutes of the association are the official records of that association and are so recognized by courts.

In general, it can be said that members of the Board of Directors are individually and collectively under a continuing obligation to exercise their best judgment and apply such knowledge and experience as they have in the conduct and management of the cooperative's business.

If directors exceed their authority, neglect their responsibilities or act in violation to the provisions of the statute, their charter, Bylaws or marketing contracts of their association, legal liability can result.

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Although the director of a cooperative association occupies a position of trust, responsibility and liability, they are not insurers of the success of the association.

<u>A review of director's responsibilities</u>:

1. Directors cannot abdicate their responsibility to direct.

2. Directors are required to manage the business within the boundaries established by the statute under which the corporation is incorporated, its Charter, Articles of Incorporation and Bylaws.

3. Directors are responsibile for securing capable, hired management and providing this hired management with longrange objectives and policies to guide them in their decision making and to delegate to hired management, authority to perform the tasks for which they have been given the responsibility.

4. Directors are required to have knowledge of the corporations affairs sufficient to enable them to perform their duties effectively.

5. Directors are required to act in good faith and with reasonable care and prudence in handling the affairs of the business.

6. Directors are considered involved as representing a trusteeship to the stockholders or members.

7. Directors must attend board meetings on a regular basis.

8. Directors may be held financially liable for losses incurred by the corporation and in turn the membership of the corporation under specific circumstances such as gross negligence or woeful neglect of responsibilities.

9. Directors are responsible for selling stock to new members.

10. Directors must see that only members vote at annual meeting (give ballots to stockholders only).

Is your cooperative taking advantage of the educational programs of the Ohio Council of Farmer Cooperatives?

Who is your County Coop Chairman?

When is the next meeting of your County Coop Council?

When is the next coop educational program in your county?

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CASE A

Voting at Annual Landmark Meeting

You are the secretary of your coop. You and the young couple your coop sent to the Summer Institute on Cooperative Education sponsored by AIC are checking off names and giving out ballots. This is new since always before you trusted everyone and handed them out to all who were thought to be stockholders. Joe Blow, a good customer who never misses a board meeting, stopped to pick up his ballot but his name isn't on the list. He explains that his share of stock is in his mother's-in-law name. The young farmer helping you says he is sorry but he can't give Joe a ballot but would give his mother-in-law a ballot if she were here. Joe wants to vote. Since he always has and to demonstrate his interest in the coop he lays down $25 - the exact cost of a share of common stock. He is a producer of agricultural products.
Do you give him a ballot?